IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

Crl.Rev.Pet.No. 973 of 2002()

CC.96/1999 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KUNNAMKULAM
CRA.149/2001 of ADDL. SESSIONS COURT (ADHOC), THRISSUR

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REVN. PETITIONER: APPELLANT/ACCUSED:

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1. PRASAD, S/O. CHATHAN,
   MOOKKATHAYIL HOUSE, ANDATHODE DESOM,
   PUNNAYURKUKLAM VILLAGE.

2. KARIAN, S/O. KANDARAN,
   MOOKKATHAYIL HOUSE, ANDATHODE DESOM,
   PUNNAYURKULAM VILLAGE.

BY ADV. SRI.P.VIJAYA BHANU
SRI.LELLULAL T.G.THUNDATHIL
SRI.P.M.RAFIQ

RESPONDENTS: RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
VADAKKEKAD POLICE STATION.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 30/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.5300/2002 IN CRL.R.P.NO.973/2002

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

30/10/2007

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K.R.UDAYABHANU, J.

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Crl.R.P.No.973 of 2002-B

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Dated this the 30th day of October, 2007

O R D E R

The revision petitioners who are accused Nos.2 and 3 in C.C.No.96/1999 in the court of the Judicial Magistrate of the First Class, Kunnamkulam, stand convicted for the offence under Section 326 read with Section 34 of the Indian Penal Code.

2. The prosecution case is that on 16/03/1997 at about 10.45 a.m when PW.1 was watering the plantation he was attacked by accused Nos.1 to 3. It is alleged that the first accused struck on the head of PW.1 with iron pipe and the second accused hit on elbow with iron pipe and the third accused hit him with a wooden stick on his neck and other parts of the body. PW.1 has sustained lacerated wound on the scalp 8 c.m x ½ x ½ c.m, contusion back of right thigh 10 c.m x 3 c.m, diffused contusion left thigh, tenderness lower end of ulna and diffused contusion left side of neck. X-Ray revealed fracture of ulna lower 1/3. The first accused is absconding.

3. The counsel for the revision petitioners has only sought for modification of sentence. It is stated that more than 10 years have

elapsed since the commencement of the proceedings and so far the accused/revision petitioners were living under the shadow of impending imprisonment. It is also pointed out that the third accused is aged 76 years, and the second accused is the son of the third accused. In the circumstances and considering the lapse of time of more than one decade, I find that imprisonment is to be avoided. Hence, conviction is confirmed. The second accused/first revision petitioner is sentenced to imprisonment till the rising of the court and to pay compensation of rupees fifteen thousand to PW.1 and in default to undergo simple imprisonment for six months and the sentence imposed on the third accused/second revision petitioner is modified to imprisonment till the rising of the court and to pay compensation of Rs.10,000/- to PW.1 and in default to undergo simple imprisonment for three months for the offence under Section 326 read with Section 34 I.P.C. The revision petitioners are granted three months time to remit the compensation amount. The revision petitioners shall appear before the Judicial Magistrate of the First Class, Kunnamkulam, on 30/01/2008 to receive the sentence. The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.973 of 2002-B

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O R D E R

30th October, 2007